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SENATE BILL 174

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Bernadette M. Sanchez

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

AN ACT

RELATING TO TAXATION; EXPANDING ELIGIBILITY FOR THE HIGH-WAGE
JOBS TAX CREDIT; EXTENDING THE DATE FOR ELIGIBILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9G-1 NMSA 1978 (being Laws 2004,
Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
JOBS.--

A. A taxpayer who is an eligible employer may apply
for, and the taxation and revenue department may allow, a tax
credit for each new high-wage economic-based job. The credit
provided in this section may be referred to as the "high-wage
jobs tax credit".

B. The high-wage jobs tax credit may be claimed and
allowed in an amount equal to ~~ten~~ the following percent of
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1 the wages and benefits distributed to an eligible employee in a
2 new high-wage economic-based job, but shall not exceed twelve
3 thousand dollars (\$12,000):

4 (1) ten percent if the job is performed or
5 based in a municipality with a population of less than forty
6 thousand or in the unincorporated area of a county and wages
7 are equal to or greater than twenty-eight thousand dollars
8 (\$28,000);

9 (2) two and one-half percent if the job is
10 performed or based in a municipality with a population of forty
11 thousand or more and wages distributed to an eligible employee
12 are equal to or greater than twenty-eight thousand dollars
13 (\$28,000) but less than thirty-two thousand dollars (\$32,000);

14 (3) five percent if the job is performed or
15 based in a municipality with a population of forty thousand or
16 more and wages distributed to an eligible employee are equal to
17 or greater than thirty-two thousand dollars (\$32,000) but less
18 than thirty-six thousand dollars (\$36,000);

19 (4) seven and one-half percent if the job is
20 performed or based in a municipality with a population of forty
21 thousand or more and wages distributed to an eligible employee
22 are equal to or greater than thirty-six thousand dollars
23 (\$36,000) but less than forty thousand dollars (\$40,000); and

24 (5) ten percent if the job is performed or
25 based in a municipality with a population of forty thousand or

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1 more and wages distributed to an eligible employee are equal to
2 or greater than forty thousand dollars (\$40,000).

3 C. The high-wage jobs tax credit may be claimed by
4 an eligible employer for each new high-wage economic-based job
5 performed for the year in which the new high-wage economic-
6 based job is created and for the three following qualifying
7 periods.

8 D. A new high-wage economic-based job shall not be
9 eligible for a credit pursuant to this section unless the
10 eligible employer's total number of employees with new high-
11 wage economic-based jobs on the last day of the qualifying
12 period at the location at which the job is performed or based
13 is at least one more than the number on the day prior to the
14 date the job was created.

15 E. With respect to each new high-wage economic-
16 based job for which an eligible employer seeks the high-wage
17 jobs tax credit, the employer shall certify:

18 (1) the amount of wages paid to each eligible
19 employee in a new high-wage economic-based job during each
20 qualifying period;

21 (2) the number of weeks the position was
22 occupied during the qualifying period;

23 (3) whether the new high-wage economic-based
24 job was in a municipality with a population of forty thousand
25 or more or with a population of less than forty thousand

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1 ~~[according to the most recent federal decennial census]~~ and
2 whether the job was in the unincorporated area of a county; and

3 (4) the total number of employees employed by
4 the employer at the job location on the day prior to the
5 qualifying period and on the last day of the qualifying period.

6 F. To receive a high-wage jobs tax credit with
7 respect to any qualifying period, an eligible employer shall
8 apply to the taxation and revenue department on forms and in
9 the manner prescribed by the department. The application shall
10 include a certification made pursuant to Subsection E of this
11 section.

12 G. The credit provided in this section may be
13 deducted from the modified combined tax liability of a
14 taxpayer. If the credit exceeds the modified combined tax
15 liability of the taxpayer, the excess shall be refunded to the
16 taxpayer.

17 H. As used in this section:

18 (1) "benefits" means any employee benefit plan
19 as defined in Title 1, Section 3 of the federal Employee
20 Retirement Income Security Act of 1974, 29 U.S.C. 1002;

21 (2) "eligible employee" means an individual
22 who is employed by an eligible employer and who is a resident
23 of New Mexico; "eligible employee" does not include an
24 individual who:

25 (a) bears any of the relationships

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1 described in Paragraphs (1) through (8) of 26 U.S.C. Section
2 152(a) to the employer or, if the employer is a corporation, to
3 an individual who owns, directly or indirectly, more than fifty
4 percent in value of the outstanding stock of the corporation
5 or, if the employer is an entity other than a corporation, to
6 an individual who owns, directly or indirectly, more than fifty
7 percent of the capital and profits interest in the entity;

8 (b) if the employer is an estate or
9 trust, is a grantor, beneficiary or fiduciary of the estate or
10 trust or is an individual who bears any of the relationships
11 described in Paragraphs (1) through (8) of 26 U.S.C. Section
12 152(a) to a grantor, beneficiary or fiduciary of the estate or
13 trust;

14 (c) is a dependent, as that term is
15 described in 26 U.S.C. Section 152(a)(9), of the employer or,
16 if the taxpayer is a corporation, of an individual who owns,
17 directly or indirectly, more than fifty percent in value of the
18 outstanding stock of the corporation or, if the employer is an
19 entity other than a corporation, of an individual who owns,
20 directly or indirectly, more than fifty percent of the capital
21 and profits interest in the entity or, if the employer is an
22 estate or trust, of a grantor, beneficiary or fiduciary of the
23 estate or trust; or

24 (d) is working or has worked as an
25 employee or as an independent contractor for an entity that

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1 directly or indirectly owns stock in a corporation of the
2 eligible employer or other interest of the eligible employer
3 that represents fifty percent or more of the total voting power
4 of that entity or has a value equal to fifty percent or more of
5 the capital and profits interest in the entity;

6 (3) "eligible employer" means an employer
7 that:

8 (a) made more than fifty percent of its
9 sales to persons outside New Mexico during the most recent
10 twelve months of the employer's modified combined tax liability
11 reporting periods ending prior to claiming a high-wage jobs tax
12 credit; or

13 (b) is eligible for development training
14 program assistance pursuant to Section 21-19-7 NMSA 1978;

15 (4) "modified combined tax liability" means
16 the total liability for the reporting period for the gross
17 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
18 any tax collected at the same time and in the same manner as
19 the gross receipts tax, such as the compensating tax, the
20 withholding tax, the interstate telecommunications gross
21 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
22 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
23 minus the amount of any credit other than the high-wage jobs
24 tax credit applied against any or all of these taxes or
25 surcharges; but "modified combined tax liability" excludes all

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1 amounts collected with respect to local option gross receipts
2 taxes;

3 (5) "new high-wage economic-based job" means a
4 job created by an eligible employer on or after July 1, 2004
5 [~~and prior to July 1, 2009~~] that is occupied for at least
6 forty-eight weeks of a qualifying period by an eligible
7 employee who [~~is paid wages calculated for the qualifying~~
8 ~~period to be at least:~~

9 (a) ~~forty thousand dollars (\$40,000) if~~
10 ~~the job is performed or based in a municipality with a~~
11 ~~population of forty thousand or more according to the most~~
12 ~~recent federal decennial census; and~~

13 (b) ~~twenty-eight thousand dollars~~
14 ~~(\$28,000) if the job is performed or based in a municipality~~
15 ~~with a population of less than forty thousand according to the~~
16 ~~most recent federal decennial census or in the unincorporated~~
17 ~~area of a county] receives benefits and is paid wages~~
18 ~~calculated for the qualifying period to be at least twenty-~~
19 ~~eight thousand dollars (\$28,000) pursuant to Subsection B of~~
20 ~~this section;~~

21 (6) "population" means the population of a
22 municipality according to the most recent federal decennial
23 census;

24 [~~(6)~~] (7) "qualifying period" means the period
25 of twelve months beginning on the day an eligible employee

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1 begins working in a new high-wage economic-based job or the
2 period of twelve months beginning on the anniversary of the day
3 an eligible employee began working in a new high-wage economic-
4 based job; and

5 [~~(7)~~] (8) "wages" means wages as defined in
6 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

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